REMARKS

This Application has been carefully reviewed in light of the Office Action electronically sent on January 10, 2008. The Examiner rejects Claims 1-7, and 9-10. Applicant respectfully traverses these rejections. Applicant amends Claims 1 and 9 and adds new Claims 11-13, which are fully supported by the Application as filed. Applicant respectfully requests reconsideration and favorable action in this case.

Section 101 Rejections

The Examiner rejects Claim 9 under 35 U.S.C. § 101 stating that the claimed invention is allegedly directed to non-statutory subject matter. Applicant respectfully traverses this rejection. For the purpose of advancing prosecution, however, Applicant has amended Claim 9 as suggested by the Examiner.

Section 112 Rejections

Claims 1-7 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Applicant has amended Claim 1 to address this rejection.

Section 103 Rejections

Claims 1-7 and 9-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,958,012 issued to Battat et al. ("*Battat*") in view of Internet documents entitled "Oracle Delivers Global Sales and Marketing Analysis to the Web" ("*Oracle*") or "PeopleSoft Announces Balanced Scorecard for Strategic Decision-Making" ("*PeopleSoft*") or "Cognos (R) Introduces Unparalleled Foundation for End-to-End Business Intelligence" ("*Cognos*"). Applicant respectfully traverses this rejection.

Amended Claim 1 recites:

> A method for reporting a value of a key performance indicator comprising:
> receiving information identifying a selected key performance indicator to monitor;
> identifying at least one business event associated with the selected key performance indicator;

>receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event;

>in response to receiving the business event message, electronically determining the value of the key performance indicator based on the business data; and

>displaying the determined value of the key performance indicator via a contextual visualization interface.

Battat, *Cognos*, *PeopleSoft*, and *Oracle*, alone and in combination, fail to disclose, teach, or suggest every element of amended Claim 1. At the outset, Applicant respectfully notes that the Examiner's reliance on allegedly inherent aspects of the system disclosed by *Oracle* is improper. First, in making this rejection, the Examiner replaces the entirety of Claim 1 with the phrase "monitoring and reporting a business performance." *See Office Action*, p. 4. Applicant respectfully notes that rejecting a claim based on a paraphrasing or summary of the claim's language is improper. "All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Thus, in accordance with M.P.E.P. § 2143.03, Applicant respectfully requests that, if the Examiner intends to maintain this rejection of Claim 1, the Examiner address each element of Claim 1 directly, as required by M.P.E.P. § 2143.03.

Additionally, Applicant respectfully reminds the examiner that "[t]o establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." M.P.E.P. § 2112 (emphasis added). Inherency, however, may not be established by probabilities or possibilities. *Id.* "The mere fact that a certain thing *may* result from a given set of circumstances is *not sufficient*." *Id.* (emphasis added); *see also In re Robertson*, 49 U.S.P.Q.2d 1949, 1150-51 (Fed. Cir. 1999). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic <u>necessarily</u> flows from the teachings of the applied prior art." M.P.E.P. § 2112; *Ex parte Levy*, 17 U.S.P.Q. 1461, 1464 (Bd. Pat. App. & Inter. 1990). Not only has the Examiner improperly paraphrased the language of Claim 1, but the Examiner has not provided basis to reasonably support the determination that the elements of Claim 1 are *necessarily* present in the teachings of *Oracle*.

Thus, the proposed *Battat-Cognos-PeopleSoft-Oracle* combination fails to disclose, teach, or suggest every element of Claim 1. For example, the proposed *Battat-Cognos-PeopleSoft-Oracle* combination fails to disclose, teach, or suggest "receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event." The Examiner points to *Oracle* as allegedly teaching this element. The Examiner states "this limitation appears to be included in the above teachings since business event message reads over business information or business data." *Office Action*, p. 5. However, Applicant's claim recites a "business event message including business data describing the business event." The "business event" and "business event message" are separate and distinct elements recited in Applicant's claim. The Examiner points to "sales information" and "marketing data" in *Oracle* as allegedly teaching business information or business data. *Office Action*, p. 4. These components cannot comprise both a "business event" and a "business event message" as described in amended Claim 1 and in Applicant's specification. Applicant's claim recites separate and distinct elements, and the Examiner has failed to point to separate and distinct elements in *Oracle* that disclose, teach, or suggest each of the elements in amended Claim 1. As one example, nothing in *Oracle* discloses, teaches, or suggests a "business event message" that "indicat[es] an occurrence of the business event" as described in Applicant's specification and amended Claim 1. For at least this reason, *Oracle* fails to disclose, teach, or suggest "receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event."

The Examiner also points to *PeopleSoft* as allegedly teaching this element. As alleged by the Examiner, *PeopleSoft* describes "providing the capabilities necessary to design and monitor critical success factors and calculate KPI to help managers develop and execute organizational strategy." *Office Action*, p. 5. The Examiner again states "this limitation appears to be included in the above teachings since business event message reads over business information or business data." *Office Action*, p. 5. However, as described above with respect to *Oracle*, the Examiner has failed to point to separate and distinct elements in *PeopleSoft* that disclose, teach, or suggest each of the elements in amended Claim 1. As one example, nothing in *PeopleSoft* fairly discloses, teaches, or suggests a "business event message" that "indicat[es] an occurrence of the business event" as described in amended

Claim 1. For at least this reason, *PeopleSoft* fails to disclose, teach, or suggest "receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event."

The Examiner also points to *Cognos* as allegedly teaching this element. As alleged by the Examiner, *Cognos* "allows users to identify and analyze trends and key performance indicators and drill through to relational data reports for transaction-level details." *Office Action*, p. 6. The Examiner again states "this limitation appears to be included in the above teachings since business event message reads over business information or business data." *Office Action*, p. 5. However, as described above with respect to *Oracle* and *PeopleSoft*, the Examiner has failed to point to separate and distinct elements in *Cognos* that disclose, teach, or suggest each of the elements in amended Claim 1. As one example, nothing in *Cognos* fairly discloses, teaches, or suggests a "business event message" that "indicat[es] an occurrence of the business event" as described in amended Claim 1. For at least this reason, *Cognos* fails to disclose, teach, or suggest "receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event."

The Examiner also alleges that *Battat* teaches "receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event" as described in amended Claim 1. *Office Action*, p. 7. *Battat* relates to a system for <u>managing computer components</u>. *Battat,* Abstract, emphasis added. Figure 3 of *Battat* deals with the system responding to events. See *Battat*, Col. 8, lines 44-45. *Battat* lists five different types of events, which are "user interface events 301, messages from other parts of the virtual reality workstation 302, messages from third party extensions installed in the virtual reality workstation 303, event notifications received from the object repository 304, and messages received from other systems 305." However, the Examiner fails to explain how any of these events related to <u>managing computer components</u> disclose, teach, or suggest "receiving a business event message indicating an occurrence of the business event, the business event message including business data describing the business event." Nowhere does *Battat* discuss "business events" or "business event messages" as described in amended Claim 1 and in Applicant's specification. For at least this reason, *Battat* fails to disclose, teach, or suggest "receiving a business event message

indicating an occurrence of the business event, the business event message including business data describing the business event."

As a result, the proposed *Battat-Cognos-PeopleSoft-Oracle* combination fails to disclose, teach, or suggest every element of amended Claim 1. Amended Claim 1 is thus allowable for at least the above cited reasons. Applicant respectfully requests reconsideration and allowance of amended Claim 1.

Although of differing scope from amended Claim 1, Claims 9 and 10 include elements that, for reasons substantially similar to those discussed with respect to amended Claim 1, are not disclosed, taught, or suggested by the proposed *Battat-Cognos-PeopleSoft-Oracle* combination. Claims 9 and 10 are thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claims 9 and 10.

Several of the dependents of amended Claim 1 also include elements not disclosed, taught, or suggested by the proposed *Battat-Cognos-PeopleSoft-Oracle* combination. For example, Claim 6 recites:

> A method according to claim 1, wherein the business event message describes
> a task failure event.

In addressing Claim 6, the Examiner refers to Figures 3A and 3 and element 304 of *Battat* as allegedly teaching these elements. Neither figure discloses any form of "task failure event" however. Element 304 of Figure 3 describes "event notifications from the object repository," including additions, deletions, structure changes, and status changes. See *Battat*, Col. 8, lines 50-51 and Figure 3. Nowhere is a "task failure event" disclosed, taught, or suggested, and the Examiner fails to contend otherwise. Thus, the proposed *Battat-Cognos-PeopleSoft-Oracle* combination further fails to disclose at least "wherein the business event message describes a task failure event." Furthermore, Applicant respectfully contests the Examiner's assertion that any elements of Claim 6 are "non-essential to the scope of the claimed invention." *Office Action*, p. 7. Applicant respectfully reminds the Examiner that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (citing In re Wilson, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Consequently, the Examiner's rejection of Claim 6 on this basis is improper.

As a result, the proposed *Battat-Cognos-PeopleSoft-Oracle* combination fails to disclose additional elements of Claim 6. Claim 6 is thus allowable for at least this reason.

Although of differing scope from Claim 6, the rejection of Claims 2-5 is improper for similar reasons. Applicant respectfully requests reconsideration and allowance of Claims 2-6.

New Claims

Applicant has added Claims 11-13, which are fully supported by the specification as originally filed. Claims 11-13 each recite one or more elements not disclosed, taught, or suggested by the proposed *Battat-Cognos-PeopleSoft-Oracle* combination. As an example, Claim 11 recites "receiving information identifying an expected time when the business event message should be received, and generating a business event notification when the expected time has been reached and the business event message has not been received." Nowhere does *Battat, Cognos, PeopleSoft,* or *Oracle* disclose, teach, or suggest, either alone or in combination, the elements of Claim 11, including "an expected time when the business event message should be received" and "generating a business event notification when the expected time has been reached."

Claim 12 recites:

> determining whether to request additional information about the business event based at least in part on the business data included in the business event message;
> requesting the additional information from an information provider; and
> wherein electronically determining the value of the key performance indicator comprises electronically determining the value based at least in part on the business data and the additional information.

The elements of Claim 12 are not disclosed, taught, or suggested by the proposed *Battat-Cognos-PeopleSoft-Oracle* combination.

Claim 13 recites:

> wherein the business event message further includes a successor event and an expected time period for the successor event to occur, and further comprising:
> displaying a message for the successor event when the expected time period has been reached and the successor event has not occurred.

Similarly, the elements of Claim 13 are not disclosed, taught, or suggested by the proposed *Battat-Cognos-PeopleSoft-Oracle* combination. New Claims 11-13 are thus allowable for at least these reasons. Applicant respectfully requests allowance of new Claims 11-13.
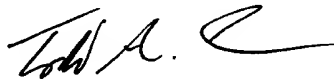
Conclusions

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

No fees are believed to be due, however, the Commissioner is hereby authorized to charge any fees or to credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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